IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

OP.No. 18293 of 2000(C)

PETITIONER:

MANAGER, ALEXANDRIYA PLANTATIONS (P) LTD.,
PADAGIRI.P.O.,
PALAKKAD DISTRICT.

BY ADV. SRI.PAULSON C.VARGHESE
SRI.K.R.B.KAIMAL

RESPONDENTS:
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1. THE INDUSTRIAL TRIBUNAL, PALAKKAD.

2. THE SECRETARY, KERALA PLANTATION WORKERS UNION,
CITU, NELLIYAMPATHY.

BY GOVERNMENT PLEADER
SRI.ASOK M.CHERIAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 18293/2000

ORDER ON CMP NO.30293/2000 IN O.P.NO. 18293/2000,
ORDER ON CMP NO.15832/2002 IN O.P.NO. 18293/2000 &
ORDER ON CMP NO. 15833/2002 IN O.P.NO. 18293/2000.

DISMISSED.

14/12/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF ENQUIRY REPORT DATED 15/06/1996 SUBMITTED BY THE ENQUIRY OFFICER P.PREMNATH, ADVOCATE, PALAGHAT.

P2 : COPY OF THE COUNTER STATEMENT DATED 23/02/1998 FILED BY THE PETITIONER BEFORE 1ST RESPONDENT IN I.D.28/97.

P3 : COPY OF THE AWARD DATED 18/02/2000 PASSED BY 1ST RESPONDENT IN I.D.NO.28/97

ANNEXURE I : COPY OF THE ORDER OF THE HONOURABLE HIGH COURT OF KERALA IN IA NO. 11287/2004 IN O.P.NO. 18293/2000

ANNEXURE I(a) : COPY OF LAWYERS NOTICE DATED 21/01/2004 CAUSED TO BE SENT BY PETITIONER'S COUNSEL TO THE MANAGEMENT OF ALEXANDRIA PLANTATION.

ANNEXURE II : COPY OF the LAWYERS NOTICE DATED 24/06/2005.

RESPONDENT'S EXHIBITS

P4 : COPY OF AFFIDAVIT FILED BY MUTHU S/O. SUBBAYYA DATED 05/08/2002.

P5 : COPY OF AFFIDAVIT FILED BY SIVAPRASAD, S/O. SMT. LEELA DATED 05/08/2002.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 18293 of 2000

Dated, this the 14th day of December, 2007

J U D G M E N T

Petitioner is challenging Ext.P3 award by which the industrial tribunal though confirmed the findings in enquiry that the two employees are guilty of the charges, reduced the punishment from dismissal to reinstatement with 75% back wages. Learned counsel for the petitioner contended that the charge leveled against two workers is so grave that there is no justification to give punishment less than what is awarded by the Management. Learned counsel for the respondents, on the other hand, contended that the industrial tribunal has taken into account the service of the two workers over 25 years prior to the alleged incident without any black mark and has also stated that the criminal case ended up in acquittal. On going through Ext.P3, I find that the industrial tribunal has concurred with the findings in the enquiry. Charges proved against the delinquent workers are that they assaulted lady workers and tore off their wearing apparels. It is also proved in enquiry that the supervisor and the watchman were also assaulted by the delinquent workers. I am of the view that the industrial tribunal showed leniency, which the delinquent workers do not deserve, because the

charges leveled and proved against them are very grave, as such, assault of fellow workers and supervisor. However, I feel, having regard to the 25 years of service the delinquent employees had rendered before the incident, some leniency is called for in regard to punishment. This original petition is partly allowed by converting the punishment to that of discharge. The delinquent workers are entitled to payment of wages under Section 17B of the Industrial Disputes Act during pendency of this original petition and also their gratuity in full.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg